

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF GEORGIA**

**DEXTER CAMPBELL**

**Plaintiff,**

**v.**

**Case No. 5:12CV00181HL**

**MERCER UNIVERSITY;  
D. BLOODWORTH, individually,  
STEVE GAINES, individually,  
RAY BRIDGER, individually,**

**Defendants**

**DEFENDANT DAN BLOODWORTH'S  
MOTION TO DISMISS FOR INSUFFICIENT SERVICE OF PROCESS  
AND FAILURE TO STATE A CLAIM**

COMES NOW, DEFENDANT DAN BLOODWORTH, and hereby files his Motion to Dismiss Plaintiff's Complaint and Amended Complaint pursuant to FED. R. CIV. P. 12(b) and FED. R. CIV. P. 4(m) because service of process has been insufficient and because the Complaint and Amended Complaint fail to state a claim upon which relief can be granted.<sup>1</sup> On November 30, 2012, 427 days after filing his initial Complaint, Plaintiff finally served Defendant Bloodworth with a

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<sup>1</sup> Although the arguments relating to insufficient service of process are substantially similar, this Motion to Dismiss is not meant to be duplicative of Defendant's previously filed Motion to Dismiss [Doc. 34]. Because Plaintiff served Defendant with a copy of an Amended Complaint, and Defendant's initial Motion to Dismiss moved to dismiss the initial Complaint, Defendant files the present Motion to Dismiss in order to comply with the requirements of Fed. R. Civ. P. 12(b).

copy of “Plaintiff’s First Amended Complaint.” [Doc. 24]. This is far outside the 120 days allowed by FED. R. CIV. P. 4(m) and, therefore, Plaintiff’s Complaint and Amended Complaint should be dismissed. Furthermore, Counts II, III, and IV of Plaintiff’s Complaint and Amended Complaint should be dismissed for failure to state a claim against Defendant Bloodworth because he is immune from Plaintiff’s state law claims pursuant to the provisions of the Georgia Tort Claims Act. In support of his Motion, Defendant Bloodworth relies upon the Memorandum of Law filed contemporaneously herewith.

WHEREFORE, Defendant Dan Bloodworth respectfully requests this Court DISMISS Plaintiff’s Complaint and Amended Complaint *without prejudice*. Counts II-IV of Plaintiff’s Complaint and Amended Complaint should be DISMISSED *with prejudice*.

THIS 20<sup>th</sup> day of December, 2012.

BENDIN SUMRALL & LADNER, LLC

/s/ Brian D. Trulock

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on December 20, 2012, I electronically filed DEFENDANT DAN BLOODWORTH'S MOTION TO DISMISS FOR INSUFFICIENT SERVICE OF PROCESS AND FAILURE TO STATE A CLAIM with the Clerk of Court using the CM/ECF system which will automatically send e-mail notification of such filing to the following parties:

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THIS 20<sup>th</sup> day of December, 2012.

BENDIN SUMRALL & LADNER, LLC

/s/ Brian D. Trulock  
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